

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

Gabriel Randolph,	)	Civil Action No.: 1:13-cv-00074-JMC
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
	)	<b>ORDER AND OPINION</b>
Lt. Haroff, Sgt. Allewine, Ofc.	)	
Haymond, Ofc. Binkley, and Ofc.	)	
Tucker, each in their individual and	)	
official capacities,	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Gabriel Randolph, proceeding *pro se*, filed this action pursuant to 42 U.S.C. § 1983 alleging various violations of his constitutional rights under the Eighth Amendment of the United States Constitution. (ECF No. 13-2.)

This matter is before the court on the Magistrate Judge’s Report and Recommendation (ECF No. 73), filed on October 15, 2014, recommending that the Motion for Summary Judgment filed by Defendants Harouff,<sup>1</sup> Haymond, Binkley, and Tucker (“Moving Defendants”) (ECF No. 69) be denied in part and granted in part. More specifically, the Magistrate Judge recommended that the Motion for Summary Judgment be denied as to Plaintiff’s denial of decontamination claim and granted as to Plaintiff’s remaining claims. (ECF No. 73 at 12.) The Report and Recommendation sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the Magistrate Judge’s recommendation without recitation. For the reasons set forth below,

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<sup>1</sup> Defendants indicate that Harouff is the correct spelling of Lt. Harouff’s name. (ECF No. 69-1 at 1.)

the court **GRANTS IN PART AND DENIES IN PART** Moving Defendants' Motion for Summary Judgment.

#### **STANDARD OF REVIEW**

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Matthews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

#### **DISCUSSION**

This court incorporates by reference the Magistrate Judge's recitation of the procedural history and facts of this case. (ECF No. 73 at 1–3.)

After receiving the Magistrate Judge's Report and Recommendation on the pending motion, Plaintiff timely filed an Objection to the Report and Recommendation. (ECF No. 75.) Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party's right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. *See United States v. Schronce*, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Magistrate Judge's Report and Recommendation, this court is

not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Upon review, the court finds that Plaintiff's sole specific objection merely restates his claim addressed by the dispositive portion of the Magistrate Judge's Report and Recommendation. Plaintiff objects to the Magistrate Judge's finding that Moving Defendants' use of force was reasonable and not malicious or sadistic in light of Plaintiff's conduct. (ECF No. 73 at 8–9.) Plaintiff's objection appears to be based on the assertion that the Cell Check Log (ECF No. 75-1) evidences the malicious and sadistic use of force by Moving Defendants. However, Plaintiff's naked assertion that "[t]he Eighth Amendment do[es] not permit any kind of physical punishment" (ECF No. 75) accompanied by the Cell Check Log does not change the fact that the Magistrate Judge properly concluded that the use of force by Moving Defendants was reasonable in light of the circumstances.

For the foregoing reasons, the court adopts the Magistrate Judge's Report and Recommendation (ECF No. 73) and **DENIES** Moving Defendants' Motion for Summary Judgment (ECF No. 69) as to Plaintiff's denial of decontamination claim and **GRANTS** Moving Defendants' Motion for Summary Judgment as to Plaintiff's remaining claims.

**IT IS SO ORDERED.**

A handwritten signature in black ink, reading "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

February 25, 2015  
Columbia, South Carolina